

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

CAROL A. WILSON, et al.,

Plaintiffs,

v.

**Civil Action 2:15-cv-2760
Judge Algenon L. Marbley
Magistrate Judge Jolson**

**ALL PHASE MASONRY AND
CONSTRUCTION, LLC,**

Defendant.

REPORT AND RECOMMENDATION

This is an action for unpaid fringe benefit contributions, statutory interest, and other damages under ERISA, 29 U.S.C. § 1132. After Defendant was served and failed to plead or otherwise defend this action, Plaintiffs applied to the Clerk for entry of default. (Doc. 38). The Clerk entered default pursuant to Federal Rule Civil Procedure 55(a) on September 27, 2017. (Doc. 39). Plaintiffs filed a Motion for Default Judgment on September 29, 2017. (Doc. 40). This matter was reassigned to the Undersigned on November 8, 2017. (Doc. 42).

Upon review, it is **RECOMMENDED** that Plaintiffs' Motion for Default Judgment (Doc. 8), be **GRANTED** and judgment be entered in favor of Plaintiffs and against Defendant as follows:

1. Audit findings/delinquent contributions for the period September 1, 2014 to June 1, 2017 in the amount of \$14,351.78;
2. Interest in the amount of \$7,193.45 calculated to October 15, 2017, plus \$7.08 per day thereafter as long as the judgment remains unpaid;
3. Statutory interest in the amount of \$7,193.45 calculated to October 15,

2017, plus \$7.08 per day thereafter as long as the judgment remains unpaid;

4. Attorney fees in the amount of \$10,200.00 and court costs in the amount of \$1,033.20.
5. Sanctions in the amount of \$37,300.00 based on the Order for Contempt issued by the Court on September 21, 2016.

(See Doc. 19, Doc. 38-1, Doc. 40).

If any party seeks review by the District Judge of this Report and Recommendation, that party may, within fourteen (14) days, file and serve on all parties objections to the Report and Recommendation, specifically designating this Report and Recommendation, and the part thereof in question, as well as the basis for objection thereto. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). Response to objections must be filed within fourteen (14) days after being served with a copy thereof. Fed. R. Civ. P. 72(b).

The parties are specifically advised that failure to object to the Report and Recommendation will result in a waiver of the right to *de novo* review by the District Judge and of the right to appeal the decision of the District Court adopting the Report and Recommendation. See *Thomas v. Arn*, 474 U.S. 140 (1985); *Smith v. Detroit Fed'n of Teachers, Local 231 etc.*, 829 F.2d 1370 (6th Cir. 1987); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981).

IT IS SO ORDERED.

Date: November 13, 2017

/s/ Kimberly A. Jolson
KIMBERLY A. JOLSON
UNITED STATES MAGISTRATE JUDGE